IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.186 (SS) OF 2006

Khariti Lal Sharma,
S/o late Ganesh Dass Sharma,
Prantiya Maha Mantri Rashtriya,
Pensioners Kalyan Samiti, Haridwar.
R/o 633, Ram Nagar, Roorkee,
District Haridwar. .....Petitioner.

Versus

1. State of Uttaranchal through Chief Secretary, Administration, Uttaranchal, District Dehradun.
2. Director Madhyamik Shiksha/Basic Uttaranchal.
3. President/Director Uttaranchal Power Corporation Ltd., Urja Bhawan Kawali Road, Dehradun. .....Respondents.

Sri Manish Arora, Advocate for the petitioner
Sri B.D. Upadhyay, Advocate for the respondents.

Dated: 22.02.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of mandamus commanding the respondents to pay the original pension of the petitioner and other employees as stated in the body of the petition with merger of 50% of Dearness Allowance/Dearness with basic pension w.e.f. 01.04.2004 and also order to pay the arrears form 01.04.2004.

During the course of the argument, learned counsel for the petitioner has confined his prayer for entitlement of the pensionery benefits alone, therefore, this order will confine to the grant of the pensionery benefits to the petitioner alone.

According to the case of the petitioner, the petitioner is the Prantiya Maha Mantri of this Committee.

The short submission of the petitioner is that he is entitled for the pensionery benefit by means of notification dated 9th June, 2004 after the merge of 50% of Dearness Allowance/Dearness Relief with basic pay/pension w.e.f. 01.04.2004 as it has already done in the case of Central Govt. Employees.

He has also referred notification dated 9th June, 2004, which has been filed as Annexure-2 to the writ petition, where it has been mentioned in paragraphs 5 and 6 as under:-

''5. यह सुनिष्चित करने के लिए कि दिनांक 1.4.2004 से 31.1.2005 के बीच सेवानिवृत्त होने वाले पेंषन भोगियों को पेंषन निर्धारण में कोई हानि न हो, उनके मामले में विषेष व्यवस्था के रूप में, मूल वेतन के 50 प्रतिषत के बराबर मंहगाई भत्ते को दिनांक 1.4.2004 से पूर्व उनके द्वारा प्राप्त मूल वेतन के सम्बन्ध में पेंषन के परिकलन/आकलन के प्रयोजनों हेतु मूल वेतन के रूप में माना जायेगा। परिणाम स्वरूप मंहगाई पेंषन का भाग केवल दिनांक 31.3.2004 तक राज्य सरकार से सेवा निवृत्त हेने वाले पेंषन भेगियों के लिए लागू होगा।

6. दिनांक 1.4.2004 अथवा उसके बाद यदि कोई वेतन वृद्धि अथवा अन्य कारण से वेतन/पेंषन में पुनरीक्षण देय होता है, ऐसी स्थिति में भी 50 प्रतिषत के बराबर मंहगाई वेतन अनुमन्य होगा।

7. उक्त कार्यालय ज्ञाप द्वारा राज्य कर्मचारियों के लिए लागू व्यवस्था के फलस्परूप 1 अप्रैल 2004 से 30 जून 2004 तक की देय धनराषि सम्बन्धित अधिकारी/कर्मचारी के भविष्य निधि खाते में जमा की जायेगी। यदि कोई अधिकारी/कर्मचारी भविष्य निधि का सदस्य नहीं है तो उसे उक्त अवयुक्त धनराषि राष्ट्रीय बचन पत्र के रूप में दी जायेगी, परन्तु धनराषि के जिस अंष का सर्टिफिकेट उपलब्ध न हो, वह नगद दी जायेगी । जो कर्मी उक्त कार्यालय ज्ञाप निर्गत होने के दो माह के अन्दर सेवा निवृत्ति हो रहे हैं, को उक्त अवषेष धनराषि का नकद भुगतान किया जायेगा ।''

After the notification of 09.06.2004, the department of respondent no. 3 also gave the consent regarding the 50% of

Dearness Allowance/Dearness Relief with basic pay/ pension w.e.f. 1.4.2004 vide order dated 16.09.2004 in general.

When the aforesaid relief was not granted to the petitioner, he made a representation on 9th March, 2005 before the authorities concerned but the respondents did not pay any heed to the same.

The petitioner gave other representations on 27.03.2005 and 28.03.2005 as well as other representations from time to time stating his grievances but of no avail.

Liberty is given to the petitioner to approach the authorities by filing a fresh representation on his own behalf before the respondents no. 1, 2 and 3 for his payment, which shall be considered within a period of six weeks thereafter in accordance with the statutory recommendation by virtue of G.O. dated 9th June, 2004 and the decision taken by the Director Uttaranchal Power Corporation Ltd. Urja Bhawan Kawali Road, Dehradun on 16.09.2004

Subject to the aforesaid, writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

22.02.2006
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